

## UNITED STATES DISTRICT COURT

## NORTHERN DISTRICT OF CALIFORNIA

ARMANDO SARMENTO, MERCEDES  
TEJADA-URENA, and JOSHUA SILVA,

No. C 20–07922 WHA

Plaintiffs,

v.

BUFFETS, LLC, HOMETOWN BUFFETS,  
LLC, and VITANOVA BRANDS,**ORDER RE DISMISSAL OF  
PLAINTIFFS**

Defendants.

---

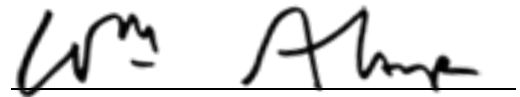
At the hearing on plaintiffs’ counsel’s motion to withdraw on June 7, 2023, from which defendants were excused at their request, plaintiffs’ counsel explained that he was still unable to reach plaintiff Joshua Silva. Stipulations signed by all parties to dismiss plaintiffs Armando Sarmiento and Mercedes Tejada-Urena pursuant to FRCP 41(a)(1)(A) have been filed (Dkt. Nos. 57, 65). While Rule 41 contemplates dismissal of “actions,” our court of appeals has interpreted it to permit dismissal of “fewer than all the plaintiffs who seek to withdraw from the action.” *Cf. Pedrina v. Han Kuk Chun*, 987 F.2d 608, 609 n.2 (9th Cir. 1993) (quoting 5 James Wm. Moore et al., *Moore’s Federal Practice* ¶ 41.06-1, at 41-86 to 41-88 (2d ed. 1992)). And, in any event, Rule 21 states that “[o]n motion or on its own, the court may at any time, on just terms, add or drop a party.” Furthermore, defendants’ counsel has filed a report under penalty of perjury explaining that the trustee in the corresponding bankruptcy proceedings David Gonzales has consented to dismissal of this action and confirmed that such

dismissal does not violate any automatic stay in place due to those proceedings (Dkt. No. 63).  
This order thus confirms that plaintiffs Sarmiento and Tejada-Urena are dismissed.

As to plaintiff Silva, the Court requested at the hearing that plaintiffs' counsel make a further attempt to contact his client. The Court shall determine how to proceed as to plaintiff Silva after receiving an update on those efforts. Otherwise, this action remains stayed.

**IT IS SO ORDERED.**

Dated: June 8, 2023.

A handwritten signature in black ink, appearing to read "Wm Alsop", is written over a horizontal line.

WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE